



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW
ATLANTA, GEORGIA 30303-8909

OCT 14 1998

General James E. Bickford, Secretary
Commonwealth of Kentucky
Natural Resources and Environmental Protection Cabinet
Capital Plaza Tower, Fifth Floor
Frankfort, KY 40601

Dear General Bickford:

The Environmental Protection Agency (EPA) has completed review of the supplemental information submitted in a letter dated July 27, 1998, from Mr. Jack A. Wilson, regarding the revisions to Kentucky water quality standards adopted by the Commonwealth on July 12, 1995. These revisions were adopted as a new regulation, 401 KAR 5:030, "Nondegradation Policy Implementation Methodology".

In a letter dated August 7, 1997, EPA approved in part, and disapproved in part, revisions to this portion of the Commonwealth's water quality standards regulation. At the same time, EPA withheld a formal action pursuant to Section 303(c) of the Clean Water Act on subsections 1(5)(a)(1) and Section 1(5)(b) of 401 KAR 5:030.

In the July 27, 1998 letter, the Commonwealth's antidegradation policy is clarified through the following statements:

Unless a demonstration is made of the socio-economic necessity of the facility, ... no new *privately*-owned sanitary wastewater treatment plant will be allowed into a high quality water.

Expansion of existing privately owned wastewater treatment plants in high quality waters will be allowed provided effluent limits are reduced to a level that does not increase pollutant loading or maintains existing water quality (as demonstrated by modeling). Phosphorus removal also will be required for expanded private facilities.

For new and expanded publicly owned sanitary wastewater treatment plants, the limits in the regulation for CBOD5 (10 mg/l) and ammonia nitrogen (2/5 mg/l summer/winter) will apply if the WLA model predicts that DO does not fall below 6 mg/l during 7Q10 low flow conditions.

Based on review of these clarifications of the Commonwealth's implementation of the antidegradation policy for sanitary wastewater treatment plants, EPA is now approving

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subsections 1(5)(a)(1) and Section 1(5)(b) of 401 KAR 5:030 pursuant to Section 303(c) of the Clean Water Act. The above clarifications are sufficient to demonstrate that, unless the Tier 2 process is completed and the Commonwealth makes the requisite findings: (1) with respect to **new privately-owned** sanitary waste treatment systems, no lowering of water quality is allowed and, (2) with respect to **new and expanded publicly-owned** plants, no significant lowering of water quality will be allowed. For **expansions of privately-owned** sanitary wastewater treatment plants, ~~no~~ lowering of water quality is allowed. These requirements are consistent with the federal antidegradation policy at 40 CFR Section 131.12(a) and EPA's interpretation of the policy.

Thank you for your response to EPA's inquiries on these issues. I look forward to resolving the remaining disapproved portions of water quality standards of the Commonwealth. If you have further questions on these issues, please call me at 404/562-9330.

Sincerely,

A handwritten signature in black ink, appearing to read "R F McGhee".

Robert F. McGhee, Director
Water Management Division

cc: Jack A. Wilson, KDOW